

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
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LEONID MIKITYANSKIY,  
Plaintiff,

v.

SEARS ROEBUCK AND CO. and  
KENMORE,  
Defendants.  
-----X

10 CV 7667 (LBS)

**NOTICE OF MOTION TO DISMISS**

PLEASE TAKE NOTICE that, upon the accompanying Declaration of Judith S. Roth dated February 4, 2011 with annexed exhibits including the Complaint, and the accompanying Memorandum of Law, and all prior proceedings had herein, defendants Sears, Roebuck and Co. and Kenmore will move this Court in Courtroom 15-A at the United States Courthouse, 500 Pearl Street, New York, New York on Thursday, February 17, 2011 at 2:15 P.M. pursuant to Rules 8(a), 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure for an Order dismissing the plaintiff-relator Leonid Mikityanskiy's Complaint against defendants.

Pursuant to this Court's Individual Practices, opposing papers to this motion (if any) must be served no later than 12:00 noon on Monday, February 14, 2011, and reply papers (if any) must be served no later than 12:00 noon on Wednesday, February 16, 2011.

Dated: New York, New York  
February 4, 2011

By: /s/ Thomas M. Crispi  
Thomas M. Crispi  
Judith S. Roth  
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